REMARKS

Claims 1, 3-8, 11, 12, 15, and 20-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,450,935. A Terminal Disclaimer is submitted with this Response and the reconsideration and withdrawal of the obviousness-type double patenting rejection in view of the Terminal Disclaimer is respectfully requested.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner takes the position that the term "similar" in claim 11 is vague. The specification focuses on the differences in the claimed invention in which relatively polar co-solvents are used in combination with tetrafluoroethane in the extraction of relatively polar antioxidant compounds from plant material, and the prior art in which relatively non-polar co-solvents were used together with tetrafluoroethane in the extraction of relatively non-polar flavor and fragrance compounds from plant material. The particular co-solvents claimed in the present invention are listed in claims 1 and their relative polarities are well known. Nonetheless, claim 11 has been canceled from the application in order to bring prosecution to a close and to facilitate allowance of the application and issuance of a patent on this invention.

The application has been amended to correct minor informalities, to further distinguish the application over the prior art, and to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention so as to place the application, as a whole, into a prima facie condition for allowance. Great care has been taken to avoid the introduction of new subject matter into the application as a result of the foregoing modifications.

Accordingly, the purpose of the claimed invention is not taught nor suggested by the cited references, nor is there any suggestion or teaching which would lead one skilled in the relevant art to combine the references in a manner which would meet the purpose of the claimed invention. Because the cited references, whether considered alone, or in combination with one another, do not teach nor suggest the purpose of the claimed invention, Applicant respectfully submits that the claimed invention, as amended, patentably distinguishes over the prior art, including the art cited merely of record.

Based on the foregoing, Applicant respectfully submits that its claims 1, 3-8, 10, 12, 15 and 18-21, as amended, are in condition for allowance at this time, patentably distinguishing

over the cited prior art. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the present application which will be effective to define the patentable subject matter if the present claims are not deemed to be adequate for this purpose.

Respectfully submitted,

Date: April 27, 2004

Kent A. Herink
Registration No. 31,025
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
666 Walnut St., Suite 2500
Des Moines, Iowa 50309
Telephone: (515) 288-2500

ATTORNEYS FOR APPLICANT